IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.4551 of 2004
Date of Decision: 15.09.2006

Samunder Singh & Ors. ...Petitioners

Vs.

Phool Singh & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Amit Sharma, Advocate,
for the petitioners.

Vinod K.Sharma, J. (Oral)

Learned counsel for the petitioner contends that he had made prayer for withdrawal of the suit with liberty to file a fresh one due to technical defect in the suit as he has not pleaded necessary parties for lack of knowledge.

The learned Trial Court while permitting the plaintiff-petitioners to withdraw the suit has declined the permission to file a fresh one. It was not open to the Court to partly allow the prayer made. Learned Trial Court has erred in law in partly allowing the prayer. The

learned Trial Court could reject the prayer as a whole so as to decide the suit on merit.

The revision petition is allowed. The impugned order is set aside. The learned Trial Court is directed to dispose of the application in accordance with law and take a decision so as to accept or reject the application in its totality.

The parties through their counsel are directed to appear before the learned Trial Court on 13.11.2006.

(Vinod K.Sharma)
Judge

15.09.2006
rp